

**UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF MASSACHUSETTS**

**LEXINGTON INSURANCE COMPANY AND  
NATIONAL UNION FIRE INSURANCE COMPANY OF  
PITTSBURGH, PA**

Plaintiffs

v.

**VIRGINIA SURETY COMPANY, INC.,**  
Defendant.

**CIVIL ACTION NO.  
04-11109 RGS**

**PLAINTIFFS', LEXINGTON INSURANCE COMPANY'S AND NATIONAL UNION FIRE  
INSURANCE COMPANY OF PITTSBURGH, PA'S, SUPPLEMENTAL AUTHORITY IN  
SUPPORT OF THEIR MOTION FOR SUMMARY JUDGMENT AND IN OPPOSITION TO  
THE CROSS-MOTION FOR SUMMARY JUDGMENT OF DEFENDANT, VIRGINIA  
SURETY COMPANY**

**LEAVE TO FILE GRANTED ON FEBRUARY 16, 2007**

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Plaintiffs, National Union Fire Insurance Company of Pittsburgh, PA ("National Union") and Lexington Insurance Company ("Lexington"), hereby submit supplemental authority in further support of their Motion for Summary Judgment and in Opposition to the Cross Motion for Summary Judgment of defendant Virginia Surety Company ("Virginia Surety"). A copy of the opinion of the U.S. District Court for the Western District of Washington in Genie Industries, Inc. v. Federal Ins. Co., 2006 U.S. Dist. LEXIS 78193 (W.D. Wash. 2006), decided on October 26, 2006, is attached hereto as Exhibit 1.

Leave to file said supplemental authority was granted by the court on February 16, 2007.

**Dated:** February 20, 2007

Respectfully submitted,  
***Lexington Insurance Company and  
National Union Fire Insurance Company of  
Pittsburgh, PA***  
by their attorneys,

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*/s/ Gerald S. Frim*

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## **CERTIFICATE OF SERVICE**

I, Gerald S. Frim, hereby certify that this document, filed through the ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on February 20, 2007.

**Dated:** February 20, 2007

*/s/ Gerald S. Frim*

Gerald S. Frim